

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

USDC SDNY
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ELECTRONICALLY FILED
DOC#:
DATE FILED: 2/23/2024

TARR,

Plaintiff,

-against-

ZAPPOS.COM LLC,

Defendant.

23-cv-08812 (ALC)

ORDER OF DISMISSAL

ANDREW L. CARTER, United States District Judge:

On October 6, 2023, Plaintiff filed a Complaint commencing this action. ECF No. 1. Plaintiff brings this suit against Defendant Zappos.com LLC (“Defendant”). Plaintiff was issued an electronic summons upon request on October 10, 2023. ECF No. 4. Service of the Complaint was due on January 4, 2024. To date, Plaintiff has yet to properly serve Defendant with summons and file proof thereof. Rule 4(m) of the Federal Rules of Civil Procedure provides:

If a defendant is not served within 90 days after the complaint is filed, the court—on motion or on its own after notice to the plaintiff—must dismiss the action without prejudice against that defendant or order that service be made within a specified time. But if the plaintiff shows good cause for the failure, the court must extend the time for service for an appropriate period.

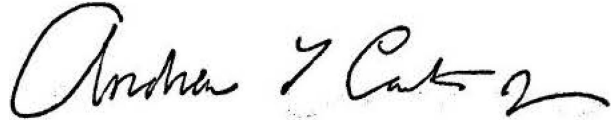
Fed. R. Civ. P. 4(m).

On January 8, 2024, the Court issued an Order to Show Cause as to why this action should not be dismissed without prejudice for failure to comply with Fed. R. Civ. P. 4(m). ECF No. 5. The Court directed Plaintiff to respond by January 22, 2024. Plaintiff responded to the Order on February 2, 2024. ECF No. 6. In that response, Plaintiff acknowledged their failure to effectively serve Defendant and stated this failure was due to a breakdown in communication between the Parties’ respective counsel. *Id.* Plaintiff has failed to make a showing of good cause as to why this case should not be dismissed. Accordingly, this action is hereby **DISMISSED WITHOUT**

PREJUDICE pursuant to Fed. R. Civ. P. 4(m). The Clerk of Court is respectfully directed to terminate this case.

SO ORDERED.

Dated: February 23, 2024
New York, New York

A handwritten signature in black ink, appearing to read "Andrew L. Carter, Jr.", written over a horizontal line.

ANDREW L. CARTER, JR.
United States District Judge